

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAY - 7 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Petition of the  
Connecticut Department of Public  
Utility Control for Amendment  
to Rule Making

DA 98-743

RM- 9258

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

Robert S. Foosaner  
Vice President  
and Chief Regulatory Officer

Lawrence R. Krevor  
Director - Government Affairs

Laura L. Holloway  
General Attorney

Nextel Communications, Inc.  
1450 G. Street, N.W.  
Suite 425  
Washington, D.C. 20005  
202-296-8111

Date: May 7, 1998

No. of Copies rec'd  
List ABCDE

045

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of the	)	DA 98-743
Connecticut Department of Public	)	
Utility Control for Amendment	)	
to Rule Making	)	

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the April 17, 1998 Public Notice of the Federal Communications Commission ("Commission"),<sup>1/</sup> Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Petition of the Connecticut Department of Public Utility Control ("DPUC"). In the Petition, the DPUC requests that the Commission amend its earlier decision prohibiting the use of service-specific overlays to provide relief for area code exhausts.<sup>2/</sup> Specifically, the DPUC seeks Commission approval of a wireless-only area code overlay.

II. BACKGROUND

Nextel is the Nation's largest provider of wide-area Specialized Mobile Radio ("SMR") services, providing an integrated package of digital telecommunications services to the public. Users of Nextel's integrated services are assigned telephone

---

<sup>1/</sup> DA 98-743, released April 17, 1998.

<sup>2/</sup> Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) ("Second Report and Order"); Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995) ("Ameritech Order").

numbers when their services are activated, thus requiring that Nextel be assigned NPA-NXXs in order to provide service to the public. Nextel is providing these services to customers throughout the state of Connecticut.

To the extent that the DPUC seeks to implement a wireless-only area code overlay that would require a take-back of existing wireless carriers' telephone numbers, Nextel opposes the Petition and respectfully requests that the Commission summarily deny it.<sup>3/</sup> Regardless of the extent of competition between wireless and wireline carriers, a take-back of numbers from only one industry segment would impose significant burdens on those carriers and their customers, and would unduly discriminate against particular carriers based on their technology. Thus, to the extent the DPUC seeks Commission approval of a wireless-only area code overlay, including take-back of existing subscribers' numbers to be replaced with numbers from the wireless only area code, its Petition should be dismissed.

### III. DISCUSSION

#### A. The Commission Must Reject Out of Hand Any Attempt To Take Back Wireless Carriers' Telephone Numbers As Part of a Service Specific Overlay

In the Petition, the DPUC asserts that the Commission should reconsider its earlier decision prohibiting service-specific overlays. The Commission prohibited any overlay plan that included exclusion, segregation or take-back of numbers, concluding that

---

<sup>3/</sup> See Petition at p. 3, referencing the DPUC's investigation of a take-back of wireless numbers.

such elements resulted in discrimination by placing the excluded segment at a competitive disadvantage, and would not further the federal policy objectives of the North American Numbering Plan.4/ The DPUC asserts, however, that because wireless and wireline carriers are not yet competing with one another, a service-specific overlay, excluding wireless carriers, is not discriminatory.5/

The DPUC's position is misguided with regard to service-specific overlays that would take back telephone numbers. The presence or absence of wireline-wireless competition is irrelevant to whether a take-back of only wireless telephone numbers is justified or supported by the Communications Act ("Act").6/ Taking back telephone numbers from customers imposes a significant burden on both carriers and their customers. The administrative burdens and costs of informing customers of a number change, retrieving the customers' units for reprogramming and taking back their numbers places an undue burden on wireless carriers and their customers. There is no justification for requiring wireless carriers and their customers to bear this entire burden while wireline carriers and customers are unaffected by the area code overlay.

Many wireless carriers are relatively new entrants to the market, and therefore are attempting to attract customers, and create and maintain goodwill in the industry. Contacting these

---

4/ See Second Report and Order at paras. 285-286.

5/ Petition at p. 5.

6/ 47 U.S.C. Sections 151 et seq.

recently acquired customers and informing them that their telephone numbers have been changed -- thus requiring them to print new business cards and stationary, as well as inform their family and friends -- could jeopardize the ability of these carriers to establish themselves in that market.

The DPUC claims that this is not a competitive disadvantage for wireless carriers because they are not competing with wireline carriers, which, under a service-specific overlay, would not be subject to these onerous burdens. However, imposing significant and disproportionate burdens on the wireless industry raises the bar for wireless carriers attempting to position themselves as serious competitors within the wireless industry, as well as future competitors with the wireline industry. The entire telecommunications industry -- wireline and wireless -- is confronted with the same problem of telephone number exhaust. One segment should not shoulder the entire burden of code exhaust for the industry. The Commission correctly found in the Ameritech Order and the Second Report and Order that take-backs are discriminatory and place an unfair anti-competitive burden on the wireless industry.<sup>7/</sup> Moreover, wireless carriers are not the sole, or even the primary, cause of telephone number exhaust; on the contrary, it is the entry of new competitors in both wireline and wireless markets, coupled with a number assignment procedure designed for a monopoly carrier environment, that is causing the

---

<sup>7/</sup> Second Report and Order at para. 285.

shortage of telephone numbers.<sup>8/</sup> Taking back wireless carriers' numbers is unfair, unjustified and not supported by the Act.

**B. Consideration of a Prospective-Only Service Specific Overlay May Be Warranted**

Although the Commission should not even consider a service specific overlay that would require a take-back of wireless telephone numbers, Nextel would not oppose the Commission's exploration of a prospective-only wireless overlay, i.e., an overlay that would not require the take back of any telephone numbers. Given the number of issues that have been raised with regard to the efficient and effective use of telephone numbers today, e.g., local number portability, number pooling, splits vs. overlays, the Commission should be open to considering various methods for resolving code exhaust situations. Prospective-only service specific overlays, like these other number exhaust proposals, may provide efficient and effective solutions to the ongoing problem of area code exhausts, and would provide states significant flexibility in addressing and resolving area code exhaust. Nextel believes, therefore, that the Commission should investigate whether the use of prospective-only service specific overlays would be consistent with the Act.

In considering the use of prospective-only overlays, however, the Commission should address a number of different issues,

---

<sup>8/</sup> In fact, the most significant factor in creating code exhausts is the entry of competitive local exchange carriers that, for competitive purposes, must obtain a 10,000 number block in every rate center regardless of the number of subscribers they have in the area. Wireless carriers should not bear the entire burden of solving numbering problems.

including (a) whether a service-specific overlay is, in reality, an efficient use of numbers since 10,000 blocks would be limited to only a specific subset of carriers; (b) whether a service-specific overlay raises unjust discrimination issues; (c) how a service-specific overlay would be implemented, e.g., on what boundaries would the overlay be established; (d) whether a service-specific overlay would facilitate the use of Calling Party Pays; and (e) whether and how service-specific overlays would be impacted by the implementation of local number portability and number pooling, i.e., the impact of porting telephone numbers from, for example, wireless carriers to wireline carriers.

Service-specific overlays, which do not require the take-back of telephone numbers from any carrier or customer, may offer another avenue for providing relief from area code exhaust. However, given the Commission's previous decision prohibiting their use and the potential discrimination issues they raise, the Commission should not permit their implementation without a notice and comment rule making proceeding, and the Commission should strictly prohibit as unjust, unfair and discriminatory, any

service-specific overlay that requires the take-back of telephone numbers from specific segments of the telecommunications industry.

Respectfully submitted,

by, 

Robert S. Foosaner  
Vice President  
and Chief Regulatory Officer

Lawrence R. Krevor  
Director - Government Affairs

Laura L. Holloway  
General Attorney

Nextel Communications, Inc.  
1450 G. Street, N.W.  
Suite 425  
Washington, D.C. 20005  
202-296-8111

Date: May 7, 1998



## CERTIFICATE OF SERVICE


I, Rochelle L. Pearson, hereby certify that on this 7th day of May 1998, I caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

Geraldine Matise, Chief  
Network Service Division  
Federal Communications Commission  
Room 235-A  
2000 M Street, N.W.  
Washington, D.C. 20554

Steve Weingarten, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Room 700  
2100 M Street, N.W.  
Washington, D.C. 20554

Erin Duffy, Esq.  
Network Service Division  
Federal Communications Commission  
Room 235-E  
2000 M Street, N.W.  
Washington, D.C. 20554

Jeannie Grimes  
Paralegal  
Network Service Division  
Federal Communications Commission  
Room 210-G  
2000 M Street, N.W.  
Washington, D.C. 20554



Rochelle L. Pearson